THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.24706 OF 2006

Date: 26-12-2006

Between:

1. Tipiresetty Peda Janakayya,
   s/o Veerayya, Hindu, coolie,
   aged 65 years, r/o Ramapuramvillage,
   Chilukuru Mandal, Nalgonda District
   and 10 others.

... Petitioners.

And

Gram Panchayat, Ramapuram,
Rep. By its Panchayat Secretary,
Ramapuram village, Chilukuru Mandal,
Nalgonda District.

... Respondent.

* * *

ORDER:

Heard Sri E.V.Bhagiratha Rao, learned counsel representing writ petitioners and Sri R.Prem Sagar, learned Standing Counsel, representing respondent.

2. The writ petition is filed for a writ of Mandamus declaring Notice Nos.2/G.P.R./02-6, 3, 1, 8, 4, 10, 14 and 2, dated 15.11.2006 of the respondent directing the petitioners to vacate the residential houses constructed in survey No.81 of Ramapuram village, Chilukuru Mandal, Nalgonda District, treating it as grama kantam land even though it is Government poramboke land vested

with the government under Section 58(1) of the A.P. Panchayat Raj Act, 1994 (hereinafter in short referred to as 'the Act' for the purpose of convenience), as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and the provisions of A.P. Panchayat Raj Act, 1994 and pass such other suitable orders.

3. It is averred by the writ petitioners that the petitioners are agricultural coolies and had constructed residential houses about 15 years ago in survey No.81 of Ramapuram village, in government poramboke land and they have been residing there with families. It is also stated that they are not having any other property except residential houses constructed by them and several others in survey No.81 of Ramapuram village. Specific stand is taken that inasmuch as the said land is government poramboke land, in view of the fact that the said land had not been transferred to the Gram Panchayat, Ramapuram under Section under Section 58(2) of the Act by notification as contemplated under the Act, the respondent has no jurisdiction to issue impugned notice dated 15.11.2006 directing them to vacate the said land after demolishing their houses. It is further stated that the petitioners constructed their residential houses in an extent of 100 to 200 square yards in survey No.81 of Ramapuram village, Chilukuru Mandal, Nalgonda District about 15 years ago and they have been residing with their families. Certain other factual details are narrated in paragraphs 5, 6 and 7 of the affidavit filed in support of the writ petition.

4. A counter-affidavit, in detail, is filed wherein at paragraph 2 it is averred that in the year 2000 a resident of the village one Are Ramanadam submitted a detailed representation to the District Collector, Nalgonda that some villagers had occupied grama kantam land illegally and requested to take immediate action to take back possession of that land by evicting them. The District Collector vide his letter No.1411/2000, dated 22.3.2000 directed the Mandal Revenue Officer, Chilukur to conduct a detailed enquiry and submit a report and the Mandal Revenue Officer, Chilukur conducted a detailed survey and identified survey No.81 was the grama kantam land and that land was occupied illegally by the writ petitioners and submitted his report to the District Collector, Nalgonda on 28.4.2000 to that effect. On 24.8.2001 and 09.6.2002 the said Ramanatham again submitted representations to the authorities requesting the government to take back the grama kantam land from the writ petitioners and use that land for public purpose. The respondent gram panchayat sent notices to all the writ petitioners vide notice No.2/GPR/02, dated 16.8.2002, to evict the grama kantam land immediately, since all the writ petitioners attempted to make illegal constructions without obtaining any permission in the grama kantam land. But the writ petitioners did not submit any explanation to the notices issued by the Gram Panchayat on 16.8.2002. Again on 9.10.2006 the said Are Ramanatham made another representation to the Gram Panchayat to occupy the grama kantam land immediately and use that land for public purpose. The respondent-Gram Panchayat passed a resolution unanimously on 7.11.2006 to evict all the writ

petitioners who were in occupation of grama kantam land illegally and accordingly issued notices to all the writ petitioners on 15.11.2006 directing them to evict the said land by removing the unauthorized constructions made by them with their own expenses and inform the same to the Gram Panchayat in writing, otherwise action will be taken under Section 131 of the Act. Further specific stand is taken that inasmuch as these are encroachments in grama kantam, notices were issued for removal of the unauthorized constructions within 15 days from the date of receipt of the notices.

5. Several other factual details are narrated and specific stand is taken that the writ petitioners are not landless or houseless persons as averred in the affidavit filed in support of the writ petition. Further specific stand is taken that this being grama kantam land, the respondent is having every right to proceed further in accordance with law. Further specific stand is taken that even if it is taken as government poramboke land, the necessary parties are the District Collector, Revenue Divisional Officer and the Mandal Revenue Officer but they are not impleaded as parties in the writ petition. Further specific stand is taken that R.Ramanatham, a resident of Ramapuram is fighting to restore the grama kantam land in the interest of the village since 22.3.2000 and on his representation only the District Collector directed the Mandal Revenue Officer to conduct a detailed enquiry and the enquiry report clearly goes to show that the writ petitioners illegally occupied the grama kantam land in survey No.81 of Ramapuram village, Chilukur Mandal, Nalgonda District.

6. In the light of the facts and circumstances, this Court is not inclined to express any opinion relating to applicability or otherwise under Section 58 of the Act referred to supra in the facts and circumstances. Further this Court is also not inclined to express any opinion whether the petitioners are landless and houseless poor persons as averred by them or as asserted and denied that they are not shown in the counter-affidavit filed by the respondent. However, inasmuch as it is stated that steps already had been initiated in accordance with procedure only, it is made clear that the respondent not to disturb the possession of the petitioners unless and until further due process of law is followed.

7. The writ petition is accordingly disposed of. It is made clear that this order may not come in the way of the parties in pursuing other legal remedies, if any, available to them. No order as to costs.

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P.S.NARAYANA, J.

Date: December 26, 2006.
BSB